

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ARTHUR WEST,

Plaintiff,

v.

STEPHEN L. JOHNSON, U.S. EPA  
ADMINISTRATOR, U.S. SECRETARY OF  
COMMERCE, WASHINGTON STATE  
DEPARTMENT OF ECOLOGY,  
ENVIRONMENTAL HEARINGS OFFICE,  
STATE OF WASHINGTON, PORT OF  
OLYMPIA, CITY OF OLYMPIA,  
WEYERHAEUSER NR COMPANY, LOTT,  
FEDERAL RAILROAD  
ADMINISTRATION, WASHINGTON  
STATE DEPARTMENT OF  
TRANSPORTATION,

Defendants.

CASE NO. C08-5741RJB

ORDER ON PLAINTIFF'S  
MOTION TO VACATE  
FINAL ORDERS OF  
DISMISSAL

This matter comes before the Court on Plaintiff's "Memo in Support of Motion to Vacate." Dkt. 150. The Court has considered the instant pleading and the remainder of the file herein.

The facts and procedural history are recounted at length in the prior orders and shall not

1 be repeated here. *See e.g.* Dkts. 51, 113, 114, 122, 127 and 130. This matter is on appeal with  
2 the Ninth Circuit Court of Appeals. Dkt. 135. Plaintiff's motions for an order vacating the final  
3 orders in this case were denied on October 26, 2010, because this matter is on appeal and the  
4 Plaintiff failed to show this Court had jurisdiction to consider the motions. Dkt. 149. That same  
5 day, Plaintiff filed his "Memo in Support of Motion to Vacate." Dkt. 150.

6 Once a notice of appeal is filed from a final judgment, the district court is divested of  
7 jurisdiction. *Laurino v. Syringa General Hosp.*, 279 F.3d 750, 755 (9th Cir. 2002); *Griggs v.*  
8 *Provident Consumer Disc. Co.*, 459 U.S. 56, 58- 59 (1982). Plaintiff still makes no showing that  
9 this Court has jurisdiction to decide this motion. The motion should be transferred to the Ninth  
10 Circuit Court of Appeals.


11 Any additional pleadings filed by Plaintiff in this matter will be filed by the Clerk of the  
12 Court, but no action will be taken unless the Court is directed to do so by the Ninth Circuit Court  
13 of Appeals.

14 Therefore, it is hereby, **ORDERED** that:

- 15 • Plaintiff's "Memo in Support of Motion to Vacate" (Dkt. 150) **IS TRANSFERRED** to  
16 the Ninth Circuit Court of Appeals.

17 The Clerk of the Court is instructed to send uncertified copies of this Order to all counsel  
18 of record and to any party appearing *pro se* at said party's last known address.

19 DATED this 16<sup>th</sup> day of November, 2010.

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22 Robert J. Bryan  
United States District Judge  
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